STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7676

Investigation into the appointment of an entity)
to provide natural gas efficiency services)

Order entered: 4/17/2015

REPORT AND RECOMMENDATION ON THE ORDER OF APPOINTMENT FOR VERMONT GAS SYSTEMS, INC. AND MODIFICATIONS TO THE PROCESS AND ADMINISTRATION DOCUMENT

I. Introduction

The Public Service Board ("Board") concluded in its July 16, 2013, Order in this proceeding that it would grant an Order of Appointment to Vermont Gas Systems, Inc. ("VGS") to provide natural gas energy efficiency utility ("EEU") services to VGS's customers. The Board directed me to conduct further proceedings related to the development of a recommended Order of Appointment and a comprehensive Process and Administration of an Energy Efficiency Utility Order of Appointment document ("P&A Document") describing the overall structure of the EEU program. In a subsequent Order, dated April 30, 2014, the Board expanded the scope of proceedings before me to include the consideration of the requirements of Condition 11 of the Certificate of Public Good ("CPG") granted to VGS in Docket No. 7970.[1]

In this Proposal for Decision ("PFD"), I recommend that the Board issue the attached Order of Appointment to VGS and approve the attached P&A Document. In addition, I recommend that the Board remand this docket to me for further proceedings, including: (1) development of a Transition Period Plan for VGS; (2) development of Guidelines for Customer-Sited Generation and Combined Heat-and-Power Projects; and (3) consideration of the expanded scope of proceedings pursuant to Condition 11 of the Docket 7970 CPG.

II. Procedural History

On July 16, 2013, the Board issued an Order regarding the Initial Overall Performance Assessment for VGS, in which it concluded that the continued delivery of natural-gas efficiency services by VGS in its service territory would promote the general good of the State. The Board remanded the proceeding to me in order to develop an Order of Appointment for VGS and a comprehensive P&A Document that would describe the overall structure of the EEU program.

On July 18, 2013, I issued a memorandum requesting that parties file proposals for additional process and a schedule to address the issues before me.

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1. *Petition of Vermont Gas Systems, Inc., for a certificate of public good, pursuant to 30 V.S.A. Section 248, authorizing the construction of the "Addison Natural Gas Pipeline" consisting of approximately 43 miles of new natural gas transmission pipeline in Chittenden and Addison Counties, approximately 5 new distribution mainlines in Addison County, together with three new gate stations in Williston, New Haven, and Middlebury, Vermont*, Docket No. 7970, Order of 12/13/13. Condition 11 of the CPG requires VGS to develop an aggressive new energy efficiency program for its new customers in Addison County and present it to the Board for review and approval.

On August 7, 2013, the Vermont Department of Public Service ("Department") requested that a status conference be convened in advance of filing process and schedule proposals. The Department represented that its request was supported by VGS, Vermont Energy Investment Corporation ("VEIC")[2], and the City of Burlington Electric Department ("BED")[3].

On September 9, 2013, I convened a status conference that was attended by representatives of the Department, VEIC, and VGS.

On September 10, 2013, I issued a procedural order that established a deadline for parties to submit filings addressing issues identified at the status conference, as well as schedule and process proposals.

On November 8, 2013, VGS filed comments pursuant to the September 10, 2013, procedural order. VGS represented that it, the Department, VEIC, and BED all supported scheduling an additional status conference.

On December 4, 2013, I issued an Order in which I adopted the schedule and process proposal filed by VGS on November 8, 2013.

On January 21, 2014, Charlotte B. Ancel, Esq., of Sheehey Furlong & Behm P.C., filed a notice of appearance on behalf of VGS.

On January 24, 2014, I convened a second status conference that was attended by representatives of VGS, the Department, VEIC, and BED. These parties each stated at the status conference that they support the concept of developing a single P&A Document that would be applicable to all EEUs.

On February 11, 2014, I issued a procedural order that required the parties to file a status report no later than March 31, 2014.

On March 31, 2014, VGS and the Department each filed status reports. On April 1, 2014, VEIC filed comments and a scheduling recommendation.

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2. VEIC serves as Efficiency Vermont, which provides energy efficiency services throughout the state except for the City of Burlington Electric Department's service territory, under an order of appointment issued by the Board on 12/20/10 in Docket 7466.

3. BED serves as an EEU in its service territory, under an Order of Appointment issued by the Board on 4/19/11 in Docket 7466.

On April 30, 2014, the Board issued a Procedural Order Re: Expanded Scope as a result of its December 23, 2013, Order in Docket 7970.

On June 30, 2014, VGS filed: (1) a "Position Statement" that identified issues in dispute among the parties regarding revisions to the P&A Document and VGS's position with respect to these issues ("VGS June 30 Comments"); (2) a marked version of the P&A Document[4] that reflected all proposed changes[5]; and (3) a table of changes cataloging all proposed revisions to the P&A Document, and setting forth the parties' overall positions with respect to each revision, as understood by VGS.

On July 1, 2014, the Department filed comments stating that it did not have a preference on when the parties should submit their comments on the proposed revisions to the P&A Document; however, the Department did request an opportunity to file reply comments. Further, the Department stated that it supports the amended schedule proposed by VGS, and that it is not opposed to considering alternative schedules.

On July 3, 2014, Morris L. Silver, Esq., filed a supplemental notice of appearance on behalf of VEIC. In addition, VEIC recommended that any comments concerning the June 30 revisions to the P&A Document proposed by VGS be considered timely if submitted no later than July 21, 2014.

On July 8, 2014, BED filed responses to VGS's proposed P&A document ("BED July 8th Comments").

On July 14, 2014, I issued a procedural order modifying the schedule and establishing deadlines for filing: (1) comments on VGS's proposed P&A document; (2) proposals for a VGS Order of Appointment; and (3) comments and reply comments on proposals for a VGS Order of Appointment.

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4. In its Order of October 4, 2013, in proceeding EEU-2013-05, the Board approved certain modifications to Section 2 of the P&A Document related to the demand resources plan and the demand resources plan proceeding. At the time of VGS's filing, other proposed changes to the P&A Document were still pending before the Board in EEU-2013-05. The marked version of the P&A Document provided by VGS was said to reflect the proposed changes that had yet to be approved by the Board in EEU-2013-05, as well as the additional changes proposed by VGS.

5. VGS filed a corrected version of this document on July 1, 2014, which included comment bubbles that indicate areas of disagreement among the parties.

On July 18, 2014, VEIC filed comments on VGS's proposed P&A Document, and proposed its own amendments to the P&A Document ("VEIC July 18th Comments").

On July 28, 2014, VGS filed a reply to comments filed by BED and VEIC ("VGS July 28th Comments").

On July 28, 2014, the Department filed comments addressing VGS's proposed P&A Document and the comments filed thereon ("Department July 28th Comments").

On August 1, 2014, VGS filed a notice of substitution of counsel. Charlotte B. Ancel, Esq., withdrew as counsel, and Peter H. Zamore, Esq., of Sheehey Furlong & Behm P.C., entered an appearance on behalf of VGS.

On August 19, 2014, VGS and VEIC each filed proposals for an Order of Appointment for VGS ("VGS August 19th Comments" and "VEIC August 19th Comments", respectively). I am admitting into evidence VEIC's proposed Order of Appointment for VGS as exhibit VEIC-1. Any party wishing to object to the admission of exhibit VEIC-1 into evidence should do so in its comments on this Proposal for Decision so that the Board may rule on any objections.

On September 2, 2014, VEIC, VGS, and the Department each filed comments addressing the VGS and VEIC Order of Appointment proposals ("VEIC September 2nd Comments", "VGS September 2nd Comments" and "Department September 2nd Comments", respectively).

On September 9, 2014, VGS, VEIC, and the Department each filed reply comments ("VGS September 9th Comments," "VEIC September 9th Comments," and "Department September 9th Comments", respectively).

On October 27, 2014, I issued a procedural order in which VEIC and VGS were each requested to file amended versions of their P&A Document proposals, so that their proposals would incorporate the modifications to the existing P&A Document approved by the Board on September 23, 2014, in proceeding EEU-2013-05. In addition, parties were requested to provide comment on a series of questions regarding VEIC's and VGS's P&A Document and Order of Appointment proposals (the "October 27th Procedural Order").

On November 7, 2014, VGS and VEIC filed conforming versions of their P&A Document proposals, and VGS, VEIC, the Department, and BED each filed comments in response to the questions posed in the October 27th Procedural Order (the "VGS November 7th

Comments," "VEIC November 7th Comments," "Department November 7th Comments," and "BED November 7th Comments"). I am admitting into evidence VEIC's November 7 P&A Document proposal as exhibit VEIC-2. Any party wishing to object to the admission of exhibit VEIC-2 into evidence should do so in its comments on this Proposal for Decision so that the Board may rule on any objections.

On November 21, 2014, VGS, VEIC, and the Department each filed reply comments (the "VGS November 21st Comments," "VEIC November 21st Comments," and "Department November 21st Comments").

No other comments have been filed.

Pursuant to 30 V.S.A. § 8(c), based on the evidence and record before me, I present the following findings and recommendations to the Board.

III. Parties' General Positions

The proposed Orders of Appointment and P&A Documents are the results of a collaborative process that yielded consensus among the parties on many aspects of the VGS Order of Appointment and amendments to the P&A Document required for the administration of the natural gas EEU. In this section I summarize the parties' general positions on substantive matters related to the Appointment and administration of the natural gas EEU that require resolution by the Board.

VEIC

VEIC contends that the purpose of creating a natural gas EEU should be to promote and increase the seamless delivery of efficiency services to Vermont energy consumers. VEIC states that it generally supports the adoption of the P&A Document proposed by VGS with two principal exceptions:

1. If Vermont Gas collects funding for its efficiency services through a separately-stated volumetric charge, it should be entitled the "Energy Efficiency Charge" or "EEC," and should be set annually in accordance with the terms of VGS's approved demand resource plan as contemplated under 30 V.S.A. § 209(d)(3); and

2. The Fiscal Agent provisions of the existing P&A Document should apply to VGS to the same extent and in the same manner as they do to the other entities appointed to provide regulated-fuel EEU services pursuant to 30 V.S.A. § 209(d)(2).[6]

VEIC recommends that the regulatory structures governing the gas and electric EEU service providers should be consistent and utilize existing mechanisms and regulatory strategies subject to comparable terms. VEIC contends that both consumers and policymakers have developed an understanding of the electric EEC, its administration, and the role of the Fiscal Agent. Further, VEIC states that these existing regulatory structures promote transparency and accountability in the delivery of EEU services, and assure that EEC funds are reserved for such purpose. In addition, VEIC maintains that application of these structures to VGS will allow cross-EEU comparisons, which can be helpful in establishing performance benchmarks and assessing the efficacy and efficiency of the delivery of EEU services.[7]

VEIC argues that every EEU should provide a comparable scope of service, utilize the same tools, avoided costs, and screening methods, and provide service to all customers as contemplated under its Order of Appointment. VEIC contends that such terms are a key strategy toward accomplishing Vermont's energy policy as set forth in 30 V.S.A. § 202a. VEIC states that such comparable services, avoided costs, and screening methods are important where consumers may engage with different EEUs depending upon their primary fuel source or geography. Accordingly, VEIC recommends that the rules, conditions, requirements, and procedures for the administration of the EEUs should be uniform, and the planning, assumptions, modeling inputs, and screening practices in use should be consistent.[8]

VEIC further maintains that the consumer protections employed in the administration of all EEUs should be comparable so that customers are neither advantaged nor disadvantaged by the identity of their EEU appointee. VEIC contends that there are numerous examples of consumer protections throughout the Order of Appointment and P&A Document. As an example, VEIC states that the segregation of EEC funds in interest-bearing accounts that are beyond the reach of EEU creditors assures that the EEC funds are used as planned. Similarly,

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6. VEIC July 21st Comments at 1-2.
7. VEIC July 21st Comments at 2-3.
8. VEIC August 19th Comments at 6-7.

VEIC argues that consumers and providers alike benefit from transparent processes of EEU reimbursement for their program expenditures and from a comparable basis of cost presentation.[9]

VEIC argues that VGS's costs for EEU activities should be reimbursed in the same manner as are the costs for Vermont's electric and thermal energy and process fuel ("TEPF") EEUs, and that the funds to pay for the gas EEU activities should be raised via an EEC established pursuant to the procedure described in 30 V.S.A. § 209(d)(3). In the alternative, VEIC recommends that the Order of Appointment include conditions to regulate the cost-reimbursement procedures contemplated under VGS's Alternative Regulation Plan. VEIC observes that the Alternative Regulation Plan is not before the Board in this docket, and is scheduled to expire on September 30, 2015, unless otherwise extended or superseded.[10]

VEIC states that its Order of Appointment proposal modifies the terms of VGS's Order of Appointment proposal in order to address six areas:

a. creation of the same provider responsibilities and consumer protections as are employed in the administration of Vermont's electric and TEPF EEUs;

b. use of an EEC established pursuant to 30 V.S.A. § 209(d)(3) and the same cost-reimbursement processes and procedures as are employed in connection with the recovery of electric and TEPF EEU costs;

c. confirmation of the gas EEU's role in gas transmission and distribution planning and, where appropriate, in connection with the performance of Distributed Utility Planning ("DUP") and transmission planning;

d. confirmation of the gas EEU's responsibility to cooperate with the electric Distribution Utilities, VELCO and the electric EEUs to provide integrated utility service subject to the jurisdiction of the Board under 30 V.S.A. §§ 209 and 218c;

e. affirmation that the gas EEU will employ the same avoided costs, screening methods and cost-effectiveness testing protocols as are employed by the electric and TEPF EEUs to ensure consistency of program delivery between itself and the other EEUs; and

9. VEIC August 19th Comments at 7-8.

10. VEIC August 19th Comments Cover Letter.

f. establishment of the condition that where an EEU is not required to prepare or file Affiliate Transaction and/or Intra-company Cost-allocation Procedures pursuant to Section V(19) of the P&A document, the EEU should be required to prepare and file detailed processes and procedures for determining "Eligible Indirect Costs" with the goal that recovery of such costs is performed in a manner comparable to that employed in the administration of the electric and TEPF EEUs.

VEIC states that its recommendations serve to conform the Order of Appointment to the form currently used to administer the VEIC and BED appointments, and that it believes the burden to support changes from the existing EEU structures should rest with VGS.[11]

VGS

VGS states that it agrees with VEIC on several policy issues, yet it disagrees with the idea that VGS should, to the greatest extent possible, be required to mirror the rate-setting processes, administrative rules, conditions, requirements and procedures, and tools and screening methods applicable to VEIC.[12]

VGS contends that the structure, purpose, and services of the EEUs are fundamentally different, and that VGS's efficiency services relate to a commodity that is different than the commodity associated with the other EEUs. VGS argues that this fundamental difference is reflected by the fact that many of the quantitative performance indicators applicable to VEIC and BED cannot be replicated for VGS. VGS also maintains that the EEUs are engaged in widely disparate levels of non-EEU services, which result in differing cost and other impacts when EEU-specific processes are implemented. VGS further contends that the EEUs are subject to differing levels of regulation, and that provision of natural gas is subject to more competition than electric service, and as a result unnecessary costs arising from required EEU uniformity can have significant impacts. Finally, VGS observes that there are differences in the form of incorporation of the entities appointed as EEUs.[13]

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11. VEIC August 19th Comments at 2-3.
12. VGS September 2nd Comments at 1-2.
13. VGS September 2nd Comments at 2-3.

VGS states that its Order of Appointment and P&A Document proposals include mechanisms and processes that are currently integrated into its infrastructure relating to the provision of gas service, and represents that there would be financial and human resource costs if VEIC's requested changes to these mechanisms and processes were adopted. VGS questions whether the benefits of adopting VEIC's proposals exceed the costs, and observes that the Department – which represents all Vermont consumers and which oversees all EEUs – opposes VEIC's proposals relating to the Fiscal Agent process.[14]

VGS contends that its proposal – which includes an "annual *ex ante* base rate review and annual *ex poste* audit" of EEU costs – provides an efficiency cost review mechanism that is more thorough than the EEU-specific processes. VGS similarly recommends against adoption of VEIC's proposal relative to amending VGS's Alternative Regulation Plan, which was proposed in the event that the Board adopts VGS's recommendation to integrate review of VGS's EEU costs and revenue requirements into the annual base rate review. VGS argues that VEIC's proposed changes to VGS's Alternative Regulation Plan would distort the processes established in the Plan "beyond recognition" and would subject VGS to more processes than required by either the Plan or for the other EEUs. VGS also contends that it has a history of commitment to energy efficiency, that this commitment will not change under an EEU appointment, and that as a result, financial performance incentives are unnecessary.[15]

<u>Department</u>

The Department supports VGS's proposed Order of Appointment and modifications to the P&A Document. The Department states that it strongly supports the inception of a separately-stated natural gas Energy Efficiency Charge. In addition, the Department does not believe that any such funds must be managed through the Fiscal Agent process, as proposed by VEIC. Rather, the Department believes that review of VGS's efficiency expenditures can be

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14. VGS August 19th Comments at 1-2.
15. VGS September 2nd Comments at 6-7.

accomplished through the mechanisms established in VGS's current Alternative Regulation Plan.[16]

The Department contends that there is no requirement to structure the gas EEU in a manner identical to the electric and TEPF EEUs, that statute does not compel use of the Fiscal Agent process by the gas EEU, and that given VGS's long experience in delivering efficiency services, the existing mechanisms, including the VGS Alternative Regulation Plan, work well in a cost-effective manner.[17] The Department argues that it is not in the best interests of ratepayers to require an inflexible process that would require all EEUs to be regulated under a unified framework with no variations.

BED

BED does not support the review of VGS's eligible EEU costs and expenses on an annual basis, as proposed by VGS and supported by the Department. BED argues that VGS's proposal would undermine the Department's ability to review invoices and calculate the natural gas EEC in an accurate and efficient manner. BED maintains that monthly review of VGS's costs and expenses, as is performed for the electric and TEPF EEUs, would be more expeditious and more transparent than the VGS proposal.[18]

BED states that the timing and sequencing of VGS's DRP proceeding is unclear from VGS's proposal, as is whether BED would be able to participate in the planning process. BED contends that the VGS DRP should be developed in conjunction with the other EEUs in order to achieve the State's clean energy policies and to ensure that EEUs can coordinate program deliveries and implementation strategies in order to deliver cost-effective services to ratepayers.[19]

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16. Department July 1st Comments.
17. Department September 2nd Comments.
18. BED July 8th Comments at 2.
19. BED July 8th Comments at 3.

IV. Statutory Framework

Section 209(d)(2)(A) of Title 30, which describes the appointment of independent efficiency entities, states:

> In place of utility-specific programs developed pursuant to this section and section 218c of this title, the Board shall, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures, including programs and measures delivered in multiple service territories, by one or more entities appointed by the Board for these purposes. The Board may include appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency of Natural Resources. Except with regard to a transmission company, the Board may specify that the appointment of an energy efficiency utility to deliver services within an electric utility's service territory satisfies that electric utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the Board.

Section 209(d)(4) of Title 30 describes the manner in which the Board may implement such appointments:

> Appointment of an entity under subdivision (2) of this subsection may be by contract or by an order of appointment. An appointment, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Board deems appropriate to promote the public good. For good cause, after notice and opportunity for hearing, the Board may amend or revoke an order of appointment.

When read together, these statutory provisions (1) direct the Board to appoint an entity to develop, implement, and monitor natural gas efficiency and conservation programs and measures, and (2) enable the Board to do so subject to any conditions and requirements that the Board deems appropriate to promote the public good. Further, in the Board's assessment of energy efficiency and conservation programs and measures under subdivision 209(d)(1) of Title 30, the Board must find that such programs and measures, and their implementation, "will be beneficial to the ratepayers of the companies" before they may be approved. Accordingly, in crafting the VGS Order of Appointment and amending the P&A Document such that it will be applicable to all EEUs – including the natural gas EEU – it is necessary that the appointment and its administration will promote the public good, and that the resulting programs and measures, and their implementation, will be beneficial to VGS ratepayers.

V. FINDINGS

A. Proposed VGS Order of Appointment

1. The proposed VGS Order of Appointment sets forth the terms of VGS's appointment as an EEU, including the effective date, the length of the appointment, VGS's responsibilities as an EEU, and the terms of VGS's cost reimbursement. Exh. VEIC-1 at 3-9.

2. Under the terms of the proposed VGS Order of Appointment, the appointment would be effective on the date of the Order's issuance, and would last for twelve years from commencement of the appointment. Exh. VEIC-1 at 3.

3. Under the terms of the proposed VGS Order of Appointment, a Transition Period would be implemented following issuance of the appointment. Exh. VEIC-1 at 3.

4. The first performance period under the Appointment would immediately follow the Transition Period. Exh. VEIC-1 at 3.

B. Process and Administration Document

5. The proposed P&A Document is a comprehensive document that describes the entire EEU program structure. It sets forth the procedural and administrative framework for all EEU Orders of Appointment. Exh. VEIC-2 at 3.

6. The proposed P&A Document is intended to be a "living document" that would be revised in the future if the Board were to make further changes to the EEU program. The document provides that it can be amended by the Board as appropriate after due notice. Exh. VEIC-2 at 3.

7. The proposed P&A Document describes:

- the Order of Appointment legal mechanism, the Energy Efficiency Charge ("EEC") and other funding sources, and the role of the EEU Fiscal Agent;
- the content of a Demand Resources Plan ("DRP") and the process to be used to develop a DRP;

- ongoing EEU monitoring, savings verification, and evaluation activities, including the statutorily required independent third-party audit;
- the processes for evaluating an EEU's performance, conducting a competitive solicitation for a new EEU, and re-issuing, modifying, revoking or terminating an EEU's appointment;
- compensation and payment terms and processes;
- various administrative matters with which an EEU must comply; and
- an EEU's reporting requirements.

Exh. VEIC-2, *generally*.

Discussion

The proposed P&A Document calls for the EEC to be used to fund the revenue requirements of both the electric and natural gas EEUs, and further requires that the EEC be determined in accordance with the requirements of 30 V.S.A. § 209(d)(3) and Board Rule 5.300. At present, Board Rule 5.300, which was originally developed for the annual calculation of the electric EEC, is not equipped to properly determine the natural gas EEC. Further, it is unlikely that the Rule can be amended through the State rulemaking process to incorporate appropriate procedures for the annual determination of the natural gas EEC in time for the determination of natural gas EEC rates for 2016. Accordingly, if the Board concludes that the natural gas EEC should be determined in accordance with the requirements of 30 V.S.A. § 209(d)(3) and Board Rule 5.300, and if the Board determines to remand this proceeding to me for further proceedings, including the development of a Transition Period plan, I recommend the Board determine that an interim methodology for calculating the natural gas EEC – in lieu of Board Rule 5.300 – should be developed by the parties and utilized during the Transition Period until such time as Board Rule 5.300 has been amended to include the annual calculation methodology for the natural gas EEC.

VI. Issues Requiring Resolution

Overall, the parties are in agreement on many points related to the VGS Order of Appointment and amendments to the P&A Document. The parties' proposals address a wide range of issues, and many aspects of the documents have not been commented on by any party. In this PFD I do not specifically address the uncontested portions of the P&A Document and Order of Appointment proposals, except to address additional potentially substantive issues that I have identified with the documents. I have carefully reviewed the uncontested portions of the P&A Document and Order of Appointment proposals, find them reasonable, and recommend that they be approved by the Board.

The remainder of this discussion focuses on several areas where the parties have expressed disagreement, other areas where an issue has been identified but it is unclear from the parties' filings whether disagreement exists, and the additional substantive issues I have identified.

The parties are encouraged to carefully review the attached Order of Appointment and P&A Documents. I have not included any attachments to the Order of Appointment addressing a Transition Period Plan or Guidelines for Customer-Sited Generation and Combined Heat-and-Power Projects, as the parties have not specifically addressed these matters, and I recommend that the Board remand this proceeding to me for resolution of those and other issues. For the parties' convenience, I have attached a redline/strikeout version of the P&A Document relative to the P&A Document that was approved by the Board in EEU-2013-05.

A. Areas of Express Disagreement

The areas of express disagreement among the parties that require Board resolution can be summarized as follows:

(1) Is it appropriate for the Board to resolve matters associated with VGS's cost recovery at this time, or should such decisions be made in the context of a Demand Resources Plan Proceeding?

(2) Should an EEC-like mechanism to fund the natural gas EEU be established in accordance with 30 V.S.A. § 209(d)(3)?

(3) Should VGS continue its practice of including its direct energy efficiency program expenses, plus carrying costs, in its base rates, or should VGS instead utilize a "pay-as-you-go" method of monthly expense reimbursement from the Fiscal Agent?

(4) Should review of VGS's efficiency costs occur as part of the annual base rate and audit provisions of the VGS Alternative Regulation Plan, or should they occur as part of the monthly Department review process that has been employed for the electric and TEPF EEUs?

(5) Should VGS be required to file an EEU-specific procedure for cost allocation of its Eligible Indirect Costs, or instead use its existing cost allocation methodology, which VGS represents is based on and generally in accordance with the Federal Energy Regulatory Commission ("FERC") Uniform System of Accounts?

(6) Should VGS, to the greatest extent possible, be required to mirror the cost reimbursement processes, administrative rules, conditions, requirements and procedures, and the tools and screening methods employed by the other EEUs in connection with their provisions of services under their respective Orders of Appointment?

(1) Sequencing of Board Decisions

VGS contends that it is premature to address the issue of amortization of EEU program costs versus expensing at this time, but rather, that this issue should be handled in conjunction with the DRP, after the Order of Appointment is finalized. VGS notes that VGS and the Department are still discussing this matter.[20] VGS contends that consideration of the manner of VGS's cost recovery for gas EEU services is properly addressed in a DRP.[21]

The Department maintains that a decision on the issue of whether VGS should be required to submit monthly expenses for review, rather than to amortize its energy efficiency expenses, is best handled after the Order of Appointment is finalized, and in conjunction with the VGS DRP.[22]

The Department maintains that many of the issues raised by VEIC and BED will need to be addressed by the Board, and that the appropriate venue for those decisions is within the gas Demand Resources Plan proceeding.[23]

VEIC contends that setting specific gas EEU budgets and goals and developing quantifiable performance indicators are appropriate subjects for a DRP proceeding. However,

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20. VGS November 7th Comments at 1.
21. Letter from Peter H. Zamore, Esq., for VGS, to Susan Hudson, Clerk of the Board, dated November 7, 2014.
22. Department November 21st Comments at 1-2.
23. Department September 10th Comments.

VEIC disagrees with VGS and the Department regarding structural issues addressing the administration of the gas EEU and recovery of its costs. Unlike VGS and the Department, VEIC maintains that these issues are properly the subject of the Order of Appointment and P&A Documents.[24] VEIC observes that all other EEUs providing EEU services in Vermont are reimbursed through invoicing mechanisms established in their Orders of Appointment and the P&A Document. Accordingly, VEIC recommends the Board not veer from this approach, and establish the terms for reimbursement of the gas EEU's costs in this proceeding.[25]

Discussion

Both the VGS and VEIC Order of Appointment proposals address the issue of VGS's EEU program cost recovery.[26] Further, both VGS's and VEIC's proposed P&A Documents reflect that the DRP Proceeding is the proper place to consider EEU budgets, savings goals, operation fees, and performance incentives. Neither P&A Document proposal contemplates consideration of the manner of an EEU's cost recovery as part of a DRP Proceeding. Accordingly, I recommend the Board conclude that the issue is properly considered at this time. Specific issues related to VGS's EEU cost recovery are discussed in Sections 2, 3, and 4, below.

(2) EEC Funding Mechanism

Each party supports funding the natural gas EEU through a separately stated, non-by-passable volumetric charge known as the "EEC." However, the parties disagree as to whether the EEC should be established in accordance with the requirements of 30 V.S.A. § 209(d)(3).

VGS proposes to collect funds for its efficiency services through a separately stated volumetric line item set forth on its bills, which would be set annually as part of VGS's base rates and be effective in the first billing cycle in November of each year. VGS argues that setting the volumetric line item at the same time as the rest of its cost of service, under the procedures prescribed in its Alternative Regulation Plan, is the most practical and efficient option for several

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24. VEIC November 21st Comments at 2.
25. VEIC November 21st Comments at 4-5.
26. VGS Proposal at Section III.1; VEIC Proposal at Sections III.1 and IV.9.

reasons. First, VGS represents that it minimizes customer confusion by flowing through any resulting rate impact at the same time as the rest of VGS's annual rate adjustment. Second, VGS observes that it consolidates the regulatory review of VGS's recovery of efficiency costs with the rest of its cost of service, as has been done historically. Third, VGS contends that the Department's 60-day review and audit period of VGS's proposed base rates lends itself well to the Department's review and recommendation regarding VGS's proposed volumetric line item for efficiency costs. VGS argues that this is consistent with 30 V.S.A. § 209(d)(3), which provides that the Board "may establish by order or rule a volumetric charge to customers for support of energy efficiency programs . . . [which] charge shall be known as the energy efficiency charge." (Emphasis added by VGS). VGS maintains that the presence of the word "may" in the statute signifies that the Board is not required to develop a formal energy efficiency charge to support a natural gas efficiency program. VGS represents that its proposal to create a separately-stated efficiency line item on its bills, to be adjusted annually, is substantively similar to the requirements set out in 30 V.S.A. § 209(d)(3).[27]

VGS contends that requiring it to utilize the Fiscal Agent process, whereby VGS would collect funds through its efficiency line item, transfer those funds to the Fiscal Agent, and then have them remitted to VGS by the Fiscal Agent after review of invoices by the Department, would increase the costs and administrative burden to VGS's efficiency program without providing a corresponding benefit. VGS argues that such an arrangement is not required by statute, and that it would divert customer dollars which would be better spent on efficiency investments. VGS maintains that the flexibility afforded in Section 209(d)(3) – pursuant to which the Board *may* establish a volumetric charge to customers for the support of energy efficiency – means that unless the Board establishes a formal efficiency charge in accordance with Section 209(d)(3), the balance of that section, which requires revenues from such a charge to be paid to a fund administrator – the Fiscal Agent – does not apply. Further, VGS observes that the revenues from a volumetric charge to support efficiency investments are required by statute to be deposited into an "Electric Efficiency Fund." VGS maintains that such an arrangement makes sense in the context of Efficiency Vermont as an efficiency provider, because

27. VGS June 30th Comments at 2-3.

Efficiency Vermont is not otherwise an electric or gas utility and thus not a "company" subject to Board jurisdiction under 30 V.S.A. § 201. By contrast, VGS argues that it is a gas distribution utility that meets the definition of "company", and is subject to review and audit of its actually spent efficiency dollars by the Department at the time of VGS's annual base rate adjustment.[28]

From a practical perspective, VGS represents that the incremental cost to utilize the Fiscal Agent would be an estimated $78,000 in the first year, including certain one-time expenses, and approximately $49,000 in future years. VGS contends that this would result in fewer customer dollars going to efficiency investments. VGS argues that this is not the right policy outcome in light of the State's express thermal efficiency and greenhouse gas emission reduction goals established in 10 V.S.A. §§ 581 and 578.[29] Finally, VGS asserts that utilizing the Fiscal Agent will not provide any incremental benefit to the administration of the VGS efficiency program.

VEIC observes that using the same name – energy efficiency charge or EEC – to describe two different regulatory schemes could lead to administrative confusion and unintended consequences. VEIC does not find it unreasonable for VGS to incur incremental costs to administer an EEC under the same structures employed by the electric and TEPF EEUs. VEIC argues that while there may be incremental costs to implementing a system of depositing EEC collections into a fund for processing by the Fiscal Agent, VEIC has been able to administer this process in an efficient and effective manner. In addition, VEIC observes that if the Board were to appoint another EEU to provide additional or supplemental services to or for the benefit of natural gas customers, the Fiscal Agent process would facilitate the administration of a broad array of services for such customers. VEIC contends that use of the Fiscal Agent process ensures that energy efficiency funds are closely managed with an opportunity for stakeholder input.[30]

VEIC recommends that where an EEC is utilized to fund energy efficiency services provided under an Order of Appointment, consistent terms should be employed to administer the Order of Appointment, regardless of whether the services are provided to regulated gas or electric

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28. VGS June 30th Comments at 3-5.
29. VGS June 30th Comments at 5.
30. VEIC July 21st Comments at 2-3.

utility customers. VEIC states that stakeholders and consumers have extensive experience paying an EEC and a common understanding of the term "EEC" has been promulgated by the Vermont General Assembly through the enactment of 30 V.S.A. § 209(d), and by the Board through Board Rule 5.300. VEIC recognizes that the current system was initially developed for use with electric EEUs. However, VEIC maintains that the system was designed to accommodate varied circumstances, specifically, where EEUs can be either a third-party entity, such as Efficiency Vermont, or a distribution utility. Accordingly, VEIC suggests that it is appropriate to extend the reach of existing regulatory structures to an appointed natural gas EEU. Therefore, VEIC recommends modifications to the P&A Document that VEIC contends ensure consistency in the administration of EEU Orders of Appointment, thereby avoiding confusion, promoting transparency and administrative efficiency, and ensuring that there will be parity for consumers and providers of EEU services alike.[31]

VEIC observes that VGS's estimate of the annual incremental costs to utilize the Fiscal Agent process may be overstated. VEIC performed an analysis of its costs to prepare and process required EEU invoices and to account for their reimbursements. VEIC contends that even if its estimates are in error, and acknowledging that they may contain minor discrepancies from the actual costs for VGS, they are more than three times smaller than the VGS estimate.[32]

While VEIC maintains that the Order of Appointment should require that gas EEU funds be raised pursuant to 30 V.S.A. § 209(d)(3), VEIC recognizes that these funds could be raised through other means, such as VGS's Alternative Regulation Plan. In the event that the Board adopts the latter approach, VEIC recommends that a number of requirements be included in the Order of Appointment in order to provide consumers with comparable consumer protections to those offered under 30 V.S.A. § 209(d)(3) and to furnish efficiency providers with comparable incentives. These recommendations include:

a. Setting the gas EEU's EEC-like charge using the same principles that guide the establishment of an EEC for the other EEUs;

31. VEIC July 21st Comments at 3-4.
32. VEIC November 7th Comments at 2-6.

b. Holding funds raised from consumers via the EEC-like charge in a separate interest bearing account, with the interest accruing to the benefit of the gas EEU's efficiency services, independent of VGS's utility working capital accounts;

c. Not treating the funds held in an energy efficiency account as part of utility rate base, or including a return on such amounts in the utility's cost-of-service;

d. Paying for EEU services out of revenues specifically collected for such purposes, and avoiding booking and deferring such costs for subsequent recovery; and

e. Requiring VGS to file the same reports – including monthly accounting for Department review – as do the electric and TEPF EEUs.[33]

VEIC states that it is not aware of any customer confusion that has resulted from the administration of annual electric EEC rate changes in accordance with the notice requirements of Board Rule 5.300. VEIC notes that the timing of the notice and EEC rate change was not designed to align with any particular change in distribution utility rates. VEIC observes that VGS's alternative regulation plan allows for periodic adjustment of rate elements, including quarterly adjustments to gas-charge provisions and annual adjustments for non-gas charge provisions. Because VGS customers are periodically provided with notices of changes in gas rate elements, and given the likelihood that VGS customers are also electric utility customers familiar with the notice and rate provisions of the electric EEC, VEIC does not anticipate that establishment of the natural gas EEC on a schedule concurrent with the electric EEC will result in customer confusion.[34]

Discussion

One of the central questions at this stage in the proceeding is whether funding the natural gas EEU should be done in accordance with the requirements of 30 V.S.A. § 209(d)(3), as is the case with electric efficiency funding, or whether it should be accomplished through VGS's existing Alternative Regulation Plan. VGS, VEIC, and the Department all support collecting funds for the natural gas EEU through a separately stated, non-bypassable, volumetric system benefits charge on VGS customers' bills known as the "Energy Efficiency Charge" or "EEC."

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33. VEIC August 19th Comments at 11-14.
34. VEIC November 7th Comments at 10-11.

Under VGS's proposal, which is supported by the Department, the VGS EEC would be based on Board-approved budgets established in a DRP Proceeding and would be authorized as part of the Board's review and approval of VGS's base rates pursuant to its Alternative Regulation Plan. Under VEIC's proposal, the provisions of Section 209(d)(3) would control and define the procedures to be followed in setting the natural gas EEC rates. Under VEIC's proposal, the gas EEC rates would similarly be based on budgets established in a DRP Proceeding.

Section 209(d)(3) states:

> In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into an Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.
>
> (A) Balances in the Electric Efficiency Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Board will annually provide the General Assembly with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section.
>
> (B) The charge established by the Board pursuant to this subdivision (3) shall be in an amount determined by the Board by rule or order that is consistent with the principles of least cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the Board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in

> efficiency and conservation programs; and the value of targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value. The Board, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under subdivision (3) of at least $5,000.00 may apply to the Board to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Board. The remaining portion of the charge shall be used for systemwide energy benefits. The Board in its rules or order shall establish criteria for approval of these applications.

I recommend the Board conclude that funding for VGS's EEU programs should be collected in accordance with the requirements of Section 209(d)(3). In the years that the electric EEC has been established in accordance with Section 209(d)(3), a common understanding of the meaning of the term "EEC" and the associated regulatory protocols has been developed among interested stakeholders – which includes the regulatory community, utility customers, and the General Assembly. To utilize the same term – EEC – to implement a different regulatory protocol has the potential to lead to confusion and misunderstanding. I recommend the Board conclude that avoiding any potential for this confusion and misunderstanding would promote the public good, as contemplated under subdivision 209(d)(4).

VGS observes that this requirement would lead to natural gas funds being deposited into an account known as the Electric Efficiency Fund. I recommend the Board conclude that such an outcome is not problematic, as the Electric Efficiency Fund includes monies that, by statute, are required to be spent on the delivery of TEPF energy efficiency services.[35]

Whereas VGS contends that setting the EEC at the same time as its base rates is preferable as it minimizes customer confusion, VEIC, the Department, and BED do not believe that the annual establishment of the electric EEC has led to customer confusion.[36] I recommend the Board conclude that setting the gas EEC outside of the VGS base rate adjustment is unlikely to cause customer confusion. Indeed, setting the gas and electric EECs concurrently may lead to a better understanding among those customers who will be paying both a gas EEC and an electric EEC.

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35. *See* 30 V.S.A. §§ 209(e)(1)(A) and (B), and 30 V.S.A. § 255(d).
36. Department November 7th Comments at 3; BED November 7th Comments at 2.

(3) Amortization versus Expensing of VGS's EEU Costs

Under VGS's current Alternative Regulation Plan, the payroll and benefits for VGS's energy efficiency employees are projected for each rate year and included in base rates as part of VGS's annual base rate filing. All other direct energy efficiency expenses are deferred and booked to a regulatory asset account.[37] In the base rate filing, expenses deferred since the last base rate filing, plus carrying costs, are amortized over three years, and the amortization is expensed evenly during the rate year.

VGS states that costs associated with its efficiency programs are not significantly seasonal. However, VGS's revenues are quite seasonal, with approximately 70% of firm revenues occurring from November to April. Accordingly, VGS argues that amortizing efficiency program expenses (excluding payroll-related expenses) may be an appropriate way to manage rate impacts and to match cost recovery with the beneficiaries of energy efficiency investments.[38]

The Department states that it is in discussions with VGS about the advantages and disadvantages of amortization versus expensing VGS's energy efficiency costs going forward.[39]

Using information and assumptions provided by VGS, VEIC observes that the incremental nominal EEC revenue requirement that results from the amortization of VGS's direct EEU costs is approximately $241,242 over a three-year period, which represents incremental costs for customers of approximately 18.5% of the assumed gas EEU budget for a single year.[40] VEIC contends that this outcome is not surprising, as the Board previously considered financing EEU costs as a means to manage the rate impacts of electric EEU spending. VEIC states that in

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37. VGS states that in the future indirect expenses to its energy efficiency programs will be included in budgets as part of DRP proceedings.

38. VGS November 7th Comments at 3.

39. Presumably the Department has not resolved its position on this issue because it believes the issue is appropriately considered in a DRP proceeding.

40. VEIC notes that if all gas EEU costs, including eligible indirect costs, are recovered consistent with VGS's proposal to amortize its EEU costs consistent with the terms of its Alternative Regulation Plan, then the net cost of amortization to customers will be even greater. VEIC November 21st Comments at footnote 8.

that proceeding, the Board concluded that the pay-as-you-go approach resulted in the lowest EEC revenue requirement of all the various financing proposals.[41]

Discussion

It appears likely that utilizing the Section 209(d)(3) process, which would include transfer of the EEC funds to and from a Fiscal Agent, would cost ratepayers less than can be accomplished through VGS's existing Alternative Regulation Plan. Pursuant to Paragraph 3.b.iii. of VGS's current Alternative Regulation Plan, "expenses for DSM shall be amortized over a three-year period." It is my understanding that pursuant to this provision of the Alternative Regulation Plan, VGS amortizes its energy efficiency program expenses as described, thereby creating a regulatory asset in its rate base. Under this arrangement, VGS ratepayers appear to be paying carrying costs on this regulatory asset. I recommend the Board conclude that in certain circumstances such treatment of DSM expenses may be appropriate for a regulated distribution utility providing efficiency services as part of its service offerings consistent with Section 218c. However, based on the information provided by the parties in this proceeding, it appears as though the carrying cost of amortizing VGS's energy efficiency program expenditures significantly exceeds the incremental costs associated with the adoption of the Fiscal Agent process for VGS. Pursuant to 30 V.S.A. § 209(d)(1), efficiency and conservation programs and services must be beneficial to ratepayers. I recommend the Board conclude that it will be beneficial to VGS's ratepayers to minimize the costs of funding VGS's EEU programs and services. Accordingly, I recommend the Board conclude that it is not appropriate for an appointed EEU to amortize its EEU program costs. Instead, I recommend the Board determine that a "pay-as-you-go" system – whereby VGS's eligible EEU expenditures would be reimbursed in the same period as revenues are collected via an EEC – be implemented for remunerating VGS's EEU expenses. I recommend the Board determine that the attached Order of Appointment and P&A Document reflect these conclusions.

If the Board adopts this recommendation, there are implications for VGS's Alternative Regulation Plan that will need to be addressed in a future proceeding. VGS's Alternative

41. VEIC November 21st Comments at 4.

Regulation Plan will need to be amended in order for this provision to be implemented. I recommend that the Board direct the parties to file recommendations on how and when such amendment should take place.[42]

(4) Review of VGS's Efficiency Expenses

Under VGS's proposal, the Department would review one year's worth of VGS's EEU expenses at the same time that the Department reviews VGS's annual base rates. VGS notes that at this time the Department and VGS are still discussing whether any corrections, discrepancies, or other issues that are identified during the Department's annual review process would flow through the earnings sharing adjustment ("ESA") mechanism of VGS's current Alternative Regulation Plan, or instead whether they would be separately accounted for within the tracking of gas EEC collections and expenditures.[43]

VGS notes that the issue of balancing EEU expenditures versus EEC collections on an annual basis is still being discussed with the Department. VGS states that under- and over-collections would be trued-up during the annual base-rate review period, and the EEC for the next rate year would be adjusted accordingly.[44]

VEIC does not believe that the scope of review or practice – whether done on a monthly or an annual basis – is materially different. However, VEIC contends that the monthly review of EEU invoices has the advantage of providing quicker feedback and more real-time information. VEIC believes this facilitates the swift review of an EEU's actions, thus enabling the Department and Board to influence conduct.[45] In the event that the Board approves VGS's proposal for an annual review of its EEU costs, VEIC recommends that this process be adapted for use by all EEUs. VEIC maintains that such an approach would ensure that all EEUs are subject to

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42. Pursuant to Paragraph 1 of VGS's current Alternative Regulation Plan, the Plan will expire on September 30, 2015, unless extended at the request of either the Department or VGS for up to two successive two-year terms, but may not continue in effect after September 30, 2019.

43. VGS November 7th Comments at 2.

44. VGS November 7th Comments at 5.

45. VEIC November 7th Comments at 8.

comparable regulation and that customers are neither advantaged nor disadvantaged based upon the identity of their EEU provider.[46]

The Department finds VEIC's recommendation of an annual review of all EEU costs reasonable, and recommends that the concept be explored further. The Department contends that ratepayers may benefit from parallel annual expense audits of all EEUs.[47]

According to BED's understanding of VGS's proposed P&A Document, the Department would review twelve months of VGS's work papers related to eligible costs and expenses before it could recommend a new, separately stated volumetric EEC to the Board. BED observes that while the VGS proposal envisions a once-yearly review of its work papers, the other appointed EEUs currently submit monthly invoices of eligible costs and expenses to the Fiscal Agent, who then forwards them to the Department for review and payment authorization. BED states that monthly submittals provide an opportunity for the EEUs and the Department to resolve discrepancies within five business days after the receipt of the invoice. BED characterizes this as a transparent and rigorous review process enabled by the collection of invoices by an independent third party and the "near real-time" nature of the Department's assessments. BED contends that the passage of time, as well as the volume of transactions that would result under VGS's proposal, would undermine the Department's ability to efficiently review invoices and accurately calculate the gas EEC.[48]

In addition, BED contends that annual review of VGS's work papers would impose additional burdens on the other EEUs. BED states that if one of the other EEUs were to disagree with VGS about the amount of costs to be shared for a jointly delivered efficiency program, that EEU would presumably have to wait until June to present the invoices in dispute and then intervene in VGS's annual cost of service review proceeding before a resolution to the dispute could be determined by the Board. BED maintains that this would be time-consuming as well as a distraction of resources that could otherwise be engaged in program implementation.

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46. VEIC November 7th Comments at 9-10.
47. Department November 21st Comments at 2-3.
48. BED July 9th Comments at 1-2.

Accordingly, BED argues that monthly review of all EEU invoices for eligible cost recovery would be more expeditious and transparent than VGS's proposal.[49]

Discussion

Under VGS's proposal, VGS would submit its previously incurred EEU costs to the Department no later than June 30 of each year, concurrent with the preliminary assessment of its anticipated changes to base rates, pursuant to Paragraph 5.e of its Alternative Regulation Plan. The Department and its consultant would have until August 27 of each year to review and audit VGS's EEU costs and provide feedback to VGS, at the same time that the Department and its consultant review the preliminary assessment of changes to base rates. At the same time, the Department and its consultant would review VGS's proposed EEC for the subsequent rate year to ensure that it is consistent with the Board-approved budget, adjusted for EEC uncollectibles and over- or under-collection of EEC funds in previous years.

Under the VEIC proposal, VGS's EEU costs would be reviewed on a monthly basis by the Department in the same manner as current EEU costs are reviewed by the Department. If approved by the Department, the Fiscal Agent would release the approved funds to VGS.

I recommend the Board conclude that VGS's EEU costs should be reviewed by the Department on a monthly basis, in the same manner as EEU costs for BED and Efficiency Vermont are reviewed by the Department. This review process will inform the Department, VGS, the Board, and other stakeholders of any corrections, discrepancies, or other issues in a more timely manner than if a full year's worth of invoices were reviewed in July and August of each year. In addition, if the Board determines that VGS EEU funds should be raised pursuant to Section 209(d)(3), and thus pass through the Fiscal Agent, I recommend the Board conclude that it would be more administratively efficient to have the Department review VGS's costs in advance of the funds being released by the Fiscal Agent, rather than after the fact. Employing this practice will benefit from the experience accrued through utilization of this process in reviewing BED's and Efficiency Vermont's EEU costs, and will be consistent with Section 209(d)(3). For these reasons, I recommend the Board conclude that review of VGS's EEU costs

49. BED July 9th Comments at 2.

by the Department on a monthly basis will promote the public good. I recommend the Board determine that the attached Order of Appointment and P&A Document reflect these conclusions.

(5) Definition of Eligible Indirect Costs

VEIC contends that it is important that stakeholders – including the Board – be able to understand the derivation of efficiency service costs, and that such costs should be determined on a comparable basis by all EEU appointees. Accordingly, VEIC proposes that VGS be required to define the procedures used to determine its "Eligible Indirect Costs" because, as an in-house EEU service provider, VGS will not be required to file affiliate transaction and/or intra-company cost-allocation procedures. VEIC states that it is unclear whether VGS intends to include in its process for recovering EEU costs all of its related costs and expenses. VEIC gives as an example of such costs and expenses information system costs, accounting system costs, employee overheads, transportation, office space, and all other applicable costs. VEIC contends that if VGS does not include all of its related costs and expenses, the comparisons of the costs of EEU services across electric, TEPF, and gas EEUs will be misleading, the VGS EEU costs will be understated, and stakeholders will be presented with an inaccurate picture of the cost of efficiency services. Accordingly, VEIC recommends that the Board include requirements in the VGS Order of Appointment to ensure that a complete accounting of VGS's EEU costs are presented in a manner that is comparable to that given by VEIC and BED. VEIC states that its proposed Order of Appointment document is consistent with this recommendation.[50]

VGS's proposed Order of Appointment defines "Eligible Indirect Costs" as "those defined in the guidelines established by the Federal Energy Regulatory Commission . . . [and that t]hese guidelines shall serve as a basis for determining whether or not the allocation of a particular direct or indirect cost item incurred under this Appointment is reasonable and appropriate." VGS indicates that its accounts are generally kept in accordance with the FERC Uniform System of Accounts. VGS argues that VEIC's proposal – which would require VGS to file an EEU-specific cost allocation methodology for Eligible Indirect Costs – has not been justified, nor has VEIC explained why it should apply to VGS but not to BED. Further, VGS maintains that cost

50. VEIC August 19th Comments at 10-11.

allocation methodologies need not be uniform across all EEUs. For these reasons, VGS contends that VEIC's proposal should be rejected.[51]

Discussion

Under VEIC's recommendation, because VGS would not be required to file affiliate transaction or intra-company cost-allocation procedures, VGS would instead be required to file detailed processes and procedures for determining "eligible indirect costs." The goal of such a requirement would be that recovery of such costs would be performed in a manner comparable to that employed in the administration of the current EEUs. The requirements would ensure that all of VGS's EEU costs would be presented in a manner comparable to that provided by VEIC and BED so that information on efficiency spending is complete, accurate, and transparent.

Under VGS's recommendation, VGS would report Eligible Indirect Costs as defined in the guidelines established by FERC; the definition of Eligible Indirect Costs would be identical to that found in BED's Order of Appointment.

I recommend that the Board adopt VGS's proposed definition of Eligible Indirect Costs, and not require it to file an additional cost-allocation methodology at this time, for the following reasons. First, the definition of Eligible Indirect Costs advanced by VGS is identical to the definition currently in effect for BED, and VEIC has not demonstrated that the application of this definition to BED has resulted in incomplete, understated, or incomparable cost reporting for BED. Second, while I share VEIC's concern that all EEU-related costs be reported by VGS, including Eligible Indirect Costs, VEIC has not demonstrated that under VGS's proposed definition of Eligible Indirect Costs, VGS's costs will be incomplete, understated, or incomparable. I recommend the Board determine that the attached Order of Appointment and P&A Document reflect these conclusions.

(6) Common EEU Regulatory Requirements, Tools, and Screening Methods

VEIC argues that employing common screening methodologies and tools, technology cost and performance characterizations, avoided costs, externality values, greenhouse gas metrics, and

51. VGS September 2nd Comments at 8.

other assumptions when performing planning and implementation assessments will keep each EEU's decision tools aligned toward common regulatory objectives. VEIC states that such coordination will ensure that customers receive the same efficiency information and cost-effectiveness recommendations regardless of their EEU provider.

In its September 2 Comments, VGS disagrees with VEIC's claim that VGS should, to the extent possible, mirror, among other things, VEIC's tools and screening methods.[52]

Discussion

While VGS has argued that there is disagreement on this matter, the P&A Document proposals of both VGS and VEIC appear to agree on the requirements of cost-effectiveness screening, and the roles of both the Technical Advisory Group and the Technical Reference Manual.[53] Accordingly, consistent with the P&A Document proposals, I recommend the Board conclude that all Vermont EEUs shall utilize common screening methodologies and tools, technology cost and performance characterizations, avoided costs, externality values, greenhouse gas metrics, and other assumptions as applicable in the implementation of EEU services, as such adoption will ensure that each EEU provides comparable information and services to energy customers. I further recommend that the Board conclude that the attached P&A Document reflects this decision.

B. Other Identified Issues

There are several areas where an issue has been identified by one or more party, yet it is unclear from the parties' filings whether disagreement exists. These issues include:

(1) The timing of the VGS Demand Resources Plan Proceeding;

(2) Whether monies derived from a natural gas EEC would be ratepayer funds;

(3) The definition of "eligible customer;"

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52. VGS September 2nd Comments at 2.

53. *See* Sections V.14, VI.32 and VI.33 of VGS's November 7th P&A Document proposal, and V.14, VI.31 and VI.32 of VEIC's November 7th P&A Document proposal.

(4) The natural gas EEU's responsibility in electric utility transmission and distribution planning; and

(5) The necessity of developing for VGS a Transition Period Plan and Guidelines for Customer-Sited Generation and Combined Heat-and-Power Projects.

I recommend that the Board address these issues in order to avoid any ambiguity.

(1) Timing of VGS Demand Resources Plan Proceeding

BED states that it and Efficiency Vermont collaborate with the Department on the development of DRPs. BED notes that as an EEU, VGS would also be required to develop a DRP. However, BED contends that the timing and sequencing of VGS's DRP is unclear – whether the VGS DRP would be concurrent or sequential to the other EEU DRP proceedings. BED argues that the DRP processes need to be closely integrated so that each EEU can coordinate program designs and implementation strategies in order to achieve the State's clean energy policy objectives. Therefore, BED recommends that VGS develop its DRP in conjunction with the other EEUs.[54]

Discussion

I recommend the Board adopt BED's recommendation that the VGS DRP be developed in conjunction with those of BED and VEIC. Concurrent DRP proceedings will enable DRP budgets and savings goals to be developed in a common setting and appear to facilitate coordination of program designs and implementation strategies. I recommend the Board conclude that the attached Order of Appointment and P&A Document reflect this conclusion.

(2) Ratepayer Funds

In the October 27th procedural order I asked the parties to comment on whether funds collected by VGS pursuant to a separately stated, non-bypassable volumetric charge would be ratepayer funds.

54. BED July 9th Comments at 3.

VGS assumes that monies collected pursuant to a non-bypassable volumetric charge belongs to ratepayers and therefore will be separately tracked and accounted for.[55]

The Department believes that any monies collected pursuant to a non-bypassable volumetric charge belongs to ratepayers, and should be separately tracked and accounted for.[56] The Department recommends that natural gas EEC collections be segregated in a separate VGS account so that collections and expenditures can be reconciled annually.[57]

BED submits that because natural gas EEC funds would be collected via a special line item on customers' bills for the specific purpose of supporting VGS's EEU programs, the classification of such funds as "ratepayer" is not as important as the dedication of such funds to the implementation of VGS's EEU programs.[58]

VEIC does not believe that, under VGS's proposal, funds collected pursuant to a separately stated non-bypassable charge would be ratepayer funds – they would be cash in VGS's accounts. Rather, VEIC states that funds must be deposited in a bankruptcy-remote account where their use is dedicated to and for the benefit of ratepayers in order to be considered ratepayer funds.[59]

Discussion

Section 209(d)(3)(A) of Title 30 states in part:

> Balances in the Electric Efficiency Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Board will annually provide the General Assembly with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section.

Should the Board adopt my recommendation that the gas EEC be raised pursuant to the requirements of Section 209(d)(3), by law any such funds would be ratepayer funds, would be

55. VGS November 7th Comments at 4.
56. Department November 7th Comments at 2.
57. Department November 7th Comments at 3-4.
58. BED November 7th Comments at 2.
59. VEIC November 7th Comments at 7.

dedicated to support VGS's EEU programs, would be carried forward in the Fund at the end of each year, would not be available to meet the general obligations of the State, and would earn interest that would remain in the Fund.

(3) Definition of Eligible Customers

In the October 27th procedural order I asked the parties to comment on whether all VGS customers would be provided with an opportunity to participate in natural gas EEU services and initiatives.

VGS states that all customers and potential customers, excluding those customers participating in the self-managed energy efficiency program ("SMEEP")[60], have its energy efficiency programs available to them. However, under VGS's current efficiency program offerings, the audit-based residential retrofit program has an eligibility criterion: the residence must have a usage of at least 0.5 Ccf per square foot. VGS states that this energy density criterion is intended to increase the likelihood that opportunities for cost-effective energy efficiency measures will be identified during an audit, and that this condition is waived on a case-by-case basis.[61]

The Department believes that any customer who pays a natural gas EEC should be eligible to participate in VGS EEU services determined by VGS to be cost effective. The Department states that certain non-VGS customers may be eligible, for instance, potential VGS customers along existing and proposed distribution lines. The Department asserts that such potential VGS customers' eligibility to participate in VGS's energy efficiency programs was part of the Board's approval of VGS's petition in Docket 7970.[62]

Discussion

I recommend the Board conclude that any customer who pays a natural gas EEC should be eligible to participate in VGS EEU programs. I request that the Department, in its comments

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60. Pursuant to 30 V.S.A. § 209(j), the Board has created a class of SMEEP programs for transmission and industrial electric ratepayers.

61. VGS November 7th Comments at 5.

62. Department November 7th Comments at 3.

on this PFD, provide the specific cite to the Board's Order in Docket 7970 that the Department believes authorizes the provision of EEU services by VGS to "potential" VGS customers using VGS ratepayer funds. Parties are also requested to comment on: (1) whether such provision of EEU services by VGS to "potential" VGS customers has the potential to create overlapping or conflicting EEU service territory responsibility;[63] (2) whether good cause exists for the Board to authorize any such overlap or conflict of EEU service territories; and (3) whether any of VEIC's quantifiable performance indicators ("QPIs") would need to be adjusted if the Board were to authorize VGS to provide EEU services to "potential" VGS customers.

I recommend that the Board include a definition of "Eligible Customer" in Section IV of the Order of Appointment in order to avoid any uncertainty as to which customers meet the criteria of eligibility. I recommend the following definition:

> **Eligible Customer** shall mean a current customer who pays an EEC, or a customer who has entered into an agreement with a Distribution Utility to take service within a limited and specific period of time, at which time the customer will pay an EEC.

(4) VGS's Role in Transmission and Distribution Planning

VEIC's Order of Appointment proposal includes a provision that would task the gas EEU with the responsibility to assist with gas transmission and distribution planning to help ensure that consumers benefit from least-cost planning as contemplated under 30 V.S.A. § 218c. VEIC also observes that it may be appropriate for the gas EEU to play a role in planning for other utility sectors. VEIC states that its proposed Order of Appointment document is consistent with this recommendation.[64]

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63. Pursuant to its Order of Appointment, VEIC is responsible for serving heating-and-process fuels customers "within the geographic borders of Vermont, except those who are customers of Burlington Electric Department." VEIC Order of Appointment at Section II.4.A.

64. VEIC August 19th Comments at 9-10.

Discussion

Based on the lack of objection to this provision, I recommend that it be adopted by the Board. I recommend the Board conclude that the attached Order of Appointment reflects this decision.

(5) Necessity to Develop a Transition Period Plan and Guidelines for Customer-Sited Generation and Combined Heat-and-Power Projects

Both the VEIC and VGS proposals for an Order of Appointment call for a Transition Period that would commence upon the effective date of the VGS appointment and conclude at the beginning of the first VGS performance period. However, neither party has filed a Transition Period plan proposal. In addition, VGS's proposal included an Appendix A: Transition Period Plan and Appendix B: Guidelines for Customer-Sited Generation and Combined Heat-and-Power Projects, both based on the BED Order of Appointment. VGS states that the intent of providing these appendices was to indicate that changes from the BED Appendices would be addressed at a later time; VGS's proposal did not incorporate changes to the BED Appendices that would make them relevant to VGS. Accordingly, I have not included either appendix in the attached VGS Order of Appointment, and recommend that the Board require the parties to file proposed schedules for the prompt resolution of these two matters within ten days of the date of the Board's Order. I further recommend that the Board remand this proceeding to me to address these matters. Finally, I recommend the Board conclude that the Transition Period plan may include elements similar to those included in the Transition Period plans for BED and VEIC, which were developed in Docket 7466, and were included as part of the BED and VEIC Orders of Appointment, and that the VGS Transition Period plan shall include at least the following elements for the Transition Period: (1) VGS EEU program budgets; (2) minimum performance requirements; (3) quantifiable performance indicators; and (4) a potential performance award[65].

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65. BED's Transition Period plan did not include a potential performance award.

C. Issues Identified by Hearing Officer

In reviewing the parties' Order of Appointment and P&A Document proposals, I have identified additional areas where I believe substantive changes are necessary to accurately reflect a party's intent or current practice in the administration of EEU programs. For example, the words "should" and "will" are used in several places where "shall" should be used instead because I believe the parties intended for the Board to require an entity to perform an action. More specific changes to each document are described below. I have incorporated each of these changes into the attached VGS Order of Appointment and P&A Document, and recommend that the Board adopt them. Parties should carefully review these changes and identify any areas of concern in their comments on this PFD. In addition, I have identified an issue not related to the development of these documents, but rather, related to the expanded scope of this remand, that I request the parties address in their comments on this PFD.

(1) Changes to the VGS Order of Appointment

(a) Reference to Thermal Energy and Process Fuel Clearinghouse

Section II describes VGS's responsibilities as an appointed EEU, and Paragraph 12 of Section II describes VGS's responsibilities with respect to the provision of general information to the public. Paragraph 12.C, as proposed by VEIC and VGS, requires VGS to "[r]efer consumers to information and service resources other than the EEU." I recommend that Paragraph 12.C be amended to include reference to the TEPF clearinghouse that must be established pursuant to 30 V.S.A. § 209(g)(2), which states in part:

> "The clearinghouse shall serve as a portal for [thermal energy and process fuel] customers to access thermal energy and process fuel efficiency services and for coordination among State, regional, and local entities involved in the planning or delivery of such services, making referrals as appropriate to service providers and to entities having information on associated environmental issues such as the presence of asbestos in existing insulation."

As amended, Paragraph 12.C of Section II would read:

> Refer consumers to information and service resources other than the EEU, *including the clearinghouse mandated under 30 V.S.A. § 209(g)(2)*.

<u>(2) Changes to the P&A Document</u>

<u>(a) Section II.1.A.f</u>

Pursuant to 30 V.S.A. § 209(f)(12), the Board shall

> Require verification, on or before January 1, 2003, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity appointed by the Board to deliver energy efficiency programs under subdivision (d)(2) of this section.

I recommend that Section II.1, which describes Demand Resources Plan Proceedings, be amended so that a budget for the independent audit required by Section 209(f)(12) be established as part of a Demand Resources Plan Proceeding. Accordingly, Section II.1.A.f, as amended, would read:

> Delineate budgets for the EEU Fiscal Agent, EEU Fund Audit, *Independent Audit of EEU savings claims*, and other items funded by the EEC, as applicable.

<u>(b) Section II.1.E</u>

Section II.1.E deals with the modeling of potential EEU budgets and savings during a Demand Resources Plan Proceeding. I recommend that the two instances of the term "interested parties" in this paragraph be replaced with the word "stakeholders." The term "parties" could lead to the connotation of formal status, whereas it is my understanding that Demand Resources Plan Proceedings are intended to be open processes that have not historically required interested persons to seek formal party status. I recommend the Board conclude that the substitution of the word "stakeholders" for the term "interested parties" will help to avoid confusion of this issue.

<u>(c) Section II.1.G</u>

Section II.1.G addresses the development of QPIs during a Demand Resources Plan Proceeding. As proposed by VGS and VEIC, the purpose of the QPIs:

> shall be to establish a reasonably balanced system of risks and rewards that encourages an EEU to operate as efficiently as possible using sound management practices while achieving the objectives set forth in 30 V.S.A. § 209(d) through (g) and maximizing the benefits to Vermont's ratepayers.

I recommend that the words "and any associated performance award" be inserted immediately before the quoted section. The insertion of these words more accurately describes the balanced system of risks and rewards – the relationship between the QPIs and performance awards – that certain EEUs contend with. As amended, Section II.1.G would read, in part:

> The purpose of the QPIs *and any associated performance award* shall be to establish a reasonably balanced system of risks and rewards that encourages an EEU to operate as efficiently as possible using sound management practices while achieving the objectives set forth in 30 V.S.A. § 209(d) through (g) and maximizing the benefits to Vermont's ratepayers.

(d) Section II.1.G.b.iv

This section currently states that QPIs shall be reset by the Board at least every three years. However, the immediately preceding section states that QPIs "may be set to be achieved over a three-year performance period or to other timeframes as may be appropriate." I recommend that the Board amend Section II.1.G.b.iv to allow for QPIs that have been set on "other timeframes" to be reset by the Board on a schedule that is consistent with those other timeframes. Accordingly, I recommend that Section II.1.G.b.iv be amended as follows:

> QPIs shall be reset by the Board at least every three years*, except any QPIs that have been set to be achieved over other timeframes, as set forth in Section II.1.G.b.iii., in which case the Board shall reset those QPIs on a schedule that is consistent with those other timeframes*.

(e) Section II.4

This section currently reiterates the requirement under Section 209(f)(12) that the Board verify the reported energy and capacity savings and cost-effectiveness of programs delivered by EEU implementers by an independent auditor. Consistent with my recommendation above, I recommend that this section be amended to include the establishment of a budget for this independent audit during a Demand Resources Plan Proceeding. Accordingly, I recommend that Section II.4 be amended to read:

> In accordance with 30 V.S.A. § 209(f)(12), the Board shall require verification of the reported energy and capacity savings and cost-effectiveness of programs delivered by EEU implementers by an independent auditor. *The budgets developed during a Demand Resources Plan proceeding shall include funds reserved for the independent third-party audit.*

(f) Section V.14

Section V.14 addresses EEU cost-effectiveness screaning. I recommend that the Board insert a new paragraph into this section in order to clarify the process for updating avoided costs and externality adjustments. In Docket No. 5980, the Board approved a Memorandum of

Understanding that relied on the Department to propose updates for avoided costs.[66] Accordingly, I recommend that this section be amended as follows in order to add clarity to the process. The proposed new paragraph would read:

> C. Biennially, beginning in 2015, the Department will propose updates for avoided costs and externality adjustments. The Board will then provide an opportunity for other parties to file comments and request a technical workshop before ruling on the proposed changes.

(g) Section VI.11

Section VI addresses definitions of terms used throughout the P&A Document, and Section VI.11 defines "EEC Funds." I recommend that the Board insert the phrase "and associated activities included in the EEU Budget" into the definition of EEC Funds in order to clarify that EEC funds are used for activities beyond demand-side resources acquisition, such as non-resource acquisition, research and development, evaluation activities, and Fiscal Agent costs, among others. Accordingly, I recommend that the definition of "EEC Funds" in Section VI.11 be amended to read:

> EEC Funds means all funds collected by electric or gas Distribution Utilities from electricity or gas consumers in Vermont for the provision of demand-side resource acquisition *and associated activities included in the EEU Budget* via the EEC.

(3) Expanded Scope of Proceedings

In its Order of April 30, 2014, the Board expanded the scope of this remand to include consideration of the requirements of Condition 11 of the Docket 7970 CPG, which states:

> VGS shall develop an aggressive new energy efficiency program for its new customers in Addison County and present it to the Board for review and approval. One goal of this program shall be to invest the projected $200 million dollar savings into energy efficiency transitions that will facilitate, rather than frustrate, achieving the 90% renewable energy goal by 2050. At a minimum, VGS needs to ensure that its proposal addresses three issues: (1) its new industrial (and residential) customers in Addison County and the shaping of their energy efficiency future; (2) the opportunity for savings by industrial customers in energy efficiency technology as they invest in conversion to natural gas (e.g., replacing old technology with more efficient technology rather than simply converting it to natural gas); and (3) ensuring that the investment of VGS ratepayers in

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66. *Investigation into the Department of Public Service's Proposed Energy Efficiency Plan*, Docket 5980, Order of 9/30/99.

> the Project results in not only reliability and greater availability of natural gas to new customers but also greater energy efficiency (and reduced greenhouse gas emissions) for new and existing customers.

VGS has not yet presented an "aggressive new energy efficiency program for its new customers in Addison County" for Board review and approval. Because there is not a program proposal before the Board at this time, and because Docket 7970 has been remanded to the Board for further proceedings,[67] I recommend that the Board delay consideration of this CPG requirement until the Board's review on remand in Docket 7970 is complete. Should the Board adopt this recommendation, I further recommend that the Board require the parties to file proposed schedules for resolution of this issue within ten days of the resolution of any outstanding proceedings in Docket 7970.

VII. CONCLUSION

In this Proposal for Decision I recommend that the Board issue the attached Order of Appointment to VGS. I also recommend that the Board approve the attached P&A Document, which incorporates changes to the current P&A Document to reflect the addition of a natural gas EEU. Finally, I recommend that the Board remand this matter to me for resolution of the items identified above.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Comments on Proposal for Decision

On March 20, 2015, comments on the Proposal for Decision were filed by VGS ("VGS PFD Comments"), the Department ("Department PFD Comments"), and VEIC ("VEIC PFD Comments").

Based in part on VGS's comments on this Proposal for Decision and the matters described therein, I issued a Procedural Order on March 27, 2015, establishing a deadline of

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67. Docket 7970, Order of 1/16/15.

April 6, 2015, for the parties to state whether they request a hearing on any of the matters that to date have been at issue in this Docket.

On April 6, 2015, VGS and the Department each filed a letter stating that they do not request a hearing on the issue of expensing or amortizing EEU costs or other matters addressed in the Proposal for Decision. VGS reiterated its position that the issue of expensing or amortizing EEU costs should be addressed in conjunction with the Demand Resources Plan and after issuance of the Order of Appointment.

On April 7, 2015, VEIC filed a letter stating that it does not seek a hearing on any matter at this time. VEIC noted that in VGS's June 30, 2014, Position Statement regarding P&A document issues in dispute, VGS identified the issues in dispute among the parties as: (1) the manner in which VGS collects funding for efficiency services from customers; and (2) whether the Fiscal Agent provisions in the existing P&A document shall apply to VGS. VEIC contends that these matters were the subject of proceedings in this investigation, that the parties were afforded an opportunity to comment and reply, and that the parties have commented on the Proposal for Decision. Therefore, VEIC believes that the matter is ripe for resolution and that it is not necessary to develop a further factual record. VEIC contends that a proposal for the transition to "pay-as-you-go" can be developed as part of the Transition Period Plan, and that such a proposal can be developed between now and November 1, which would allow the Department sufficient time to propose a natural gas EEC for bills rendered in February 2016.

Because no party has requested a hearing on any matter currently at issue in this Docket, I conclude that this Proposal for Decision is ready for consideration by the Board.

Subsequent Non-Substantive Changes

Subsequent to serving this Proposal for Decision upon the parties pursuant to 3 V.S.A. § 811, I have made several non-substantive grammatical, typographical, and punctuation changes to the proposed VGS Order of Appointment and P&A Document to improve clarity and readability. Because these changes are non-substantive and are not adverse to any party in this proceeding, a revised Proposal for Decision has not been served on the parties for review.

Dated at Montpelier, Vermont, this 10th day of April, 2015.

s/Thomas Knauer
Thomas Knauer
Hearing Officer

VIII. Board Discussion

VGS, the Department, and VEIC all generally support the Hearing Officer's Proposal for Decision, including the Hearing Officer's proposed VGS Order of Appointment and modifications to the P&A Document, subject to several proposed changes. No party has requested oral argument.

The parties' comments generally address three issues: (1) whether VGS's EEU costs should be expensed or amortized; (2) whether the Hearing Officer's proposed definition of "Eligible Customer" should be adopted as written, or whether it should be broadened to permit the provision of VGS EEU services to "potential" customers; and (3) whether the Transition Period Plan should be developed within the context of this Docket, or whether its development should instead take place in a new, non-contested proceeding.

After reviewing the Proposal for Decision, the proposed VGS Order of Appointment, modifications to P&A Document (including the non-substantive changes thereto), and the parties' comments on the Proposal for Decision, we conclude that the Proposal for Decision, the proposed VGS Order of Appointment, and the modifications to the P&A Document are reasonable, and should be approved subject to the modifications discussed below.

Expensing Versus Amortizing VGS's EEU Costs

VGS argues that a Board determination on the issue of amortizing or expensing its EEU costs should be postponed. First, VGS states that in its November 7, 2014, response to Hearing Officer questions, it stated:

> Vermont Gas believes it is premature to address the issue regarding amortization versus expensing at this time. Vermont Gas believes this is best handled after the Order of Appointment is finalized and in conjunction with the DRP. It should be noted that Vermont Gas and the Department of Public Service are still in discussion on this matter.[68]

VGS contends that the matter of amortizing versus expensing was not an issue addressed in the parties' briefs or reply briefs, yet the matter is addressed in the Proposal for Decision. VGS asserts that this issue was "raised by the Board very late in the process and only through a series

68. VGS November 7 Comments at 1.

of questions, in contrast to other issues that were briefed."[69] Second, VGS maintains that the Proposal for Decision does not address VGS's request that the issue be considered in connection with the DRP, rather than now. Third, VGS argues that the Proposal for Decision does not explain why the "amortization of utility costs is beneficial to ratepayers but amortization of EEU costs is not."[70] Fourth, VGS states that its analysis of the cost of amortization reflected VGS's weighted cost of capital, and did not include an analysis of the cost implications of treating unamortized balances differently. Fifth, VGS contends that expensing its EEU costs has the potential to have a disruptive effect on rates if its efficiency costs or budgets are significant. Finally, VGS argues that unlike the customers of electric utilities, VGS customers can choose other fuel sources to serve their needs, and rate increases could put VGS at a competitive disadvantage.

VEIC concurs with the Hearing Officer's recommendation that utilizing a "pay-as-you-go" EEC process to fund VGS's EEU programs should cost customers less than booking, deferring, and amortizing such costs.

The Department does not object to a "pay-as-you-go" system for VGS, but requests that a "ramping out" of amortization be addressed in the Transition Period Plan in order to facilitate a smooth transition in VGS's rates.

After careful consideration of VGS's arguments, for the reasons discussed below we conclude that the Hearing Officer correctly determined that the issue of expensing versus amortizing VGS's EEU costs is properly before us at this time.

First, the issue of recovery of VGS's EEU costs was first identified by VGS in its June 30, 2014, Position Statement[71] and proposed P&A Document,[72] and subsequently addressed by the parties — not, as VGS contends, by the Hearing Officer late in the process.

Second, the Hearing Officer's Proposal for Decision did address VGS's request that the issue be considered in connection with the DRP, rather than now. (PFD at 17-18.) Moreover,

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69. VGS PFD Comments at 2.

70. *Id.* at 2.

71. VGS Position Statement at 2-5.

72. *See e.g.*, VGS's June 30, 2014, proposed P&A Document at 6, 19 ("An EEU's compensation structure shall be outlined in its Order of Appointment and developed in detail in the DRP Process.")

we concur with the Hearing Officer's reasoning that a DRP Proceeding is the proper place to consider EEU budgets, savings goals, operations fees, and performance incentives, as applicable, but is not the proper place to consider the manner of an EEU's cost recovery.

Third, while the Board recognizes the usefulness of amortizing some utility costs, we find this argument to be outside the scope of this proceeding. Nonetheless, amortization of utility costs is a rate recovery mechanism that spreads out relatively large and irregular utility costs over the useful life of the investment, thereby smoothing rates and avoiding potential rate shock. By contrast, VGS's EEU costs will be based on Board-approved budgets and are unlikely to be irregular. This is because, pursuant to 30 V.S.A. § 209(f)(7), with respect to all energy efficiency programs approved under Section 209, the Board must provide "a reasonably stable multiyear budget and planning cycle." Furthermore, it is likely that it will take many years for VGS to acquire all cost-effective natural gas efficiency potential in its service territory. Therefore, the most useful qualities of amortizing utility costs — spreading large and irregular costs out over time — are not appropriately applied to EEU costs subject to an Order of Appointment under applicable Vermont law.

Fourth, while we recognize that VGS's November 7, 2014, analysis of the cost of amortizing its EEU costs reflected VGS's weighted cost of capital and presented no analysis of treating unamortized balances differently, no party to date, including VGS, has suggested the possibility that such unamortized balances would receive different treatment. Indeed, in its proposed Order of Appointment, VGS recommended that it be reimbursed for actual costs and expenses incurred in connection with the provision of EEU services "as part of its Alternative Regulation rate-setting process."[73] In turn, Paragraph 3 of VGS's Alternative Regulation Plan establishes that VGS's rates may be set based on the revenue required to recover its cost of service calculated in accordance with traditional ratemaking principles and policy, including the provision that "expenses for DSM shall be amortized over a three-year period."[74] Absent any indication to the contrary from any party, it was reasonable for the Hearing Officer to interpret VGS's proposal as an indication that under an Order of Appointment VGS would continue to

73. VGS August 19, 2014, proposed Order of Appointment at 7.
74. VGS Alternative Regulation Plan at ¶3.

amortize its energy efficiency program costs in the same manner as it has done in recent years under its Alternative Regulation Plan. If VGS had contemplated a different treatment, it should have indicated so.

Fifth, we are aware that VGS's EEU costs will affect rates. The Board considers the impacts on customer rates and bills when it establishes EEU budgets as part of a DRP proceeding. Accordingly, we find this to be a function of budget setting that is unrelated to the amortization issue.

Finally, we fail to see the relevance of fuel-price competition to the appointment of an EEU, or further to the issue of whether an EEU's costs should be expensed or amortized. In fact, if, as the Board expects, VGS will have a relatively stable, ongoing EEU budget reflective of the cost-effective natural gas efficiency potential within its customer base, there will be little long-term difference in the effects of expensing versus amortizing, aside from avoiding the carrying costs of unamortized balances by way of expensing.

Therefore, we conclude that the issue of expensing versus amortizing VGS's EEU costs is appropriately considered at this time. Further, we adopt the Hearing Officer's recommendation that, under an Order of Appointment, VGS's expense recovery shall occur on a "pay-as-you-go" basis similar to that implemented for Vermont's existing EEUs. Because VGS currently amortizes its energy efficiency program costs and is likely to have unamortized balances as of the effective date of its Order of Appointment, we adopt the Department's recommendation that a "ramping out" of unamortized balances should be considered as part of the Transition Period Plan.

Definition of "Eligible Customer"

VGS recommends that the Board modify the Hearing Officer's proposed definition of "Eligible Customer" so that it would read as follows:

> **Eligible Customer** shall mean a current customer who pays an EEC, or a customer who has the potential to enter into an agreement with a Distribution Utility to take service within a limited and specific period of time, at which time the customer will pay an EEC. (Proposed language underlined.)

VGS argues that adoption of its proposed definition would allow it to continue to offer its energy efficiency services to potential new customers in advance of natural gas service being available to those potential customers. In the event that the Board adopts its proposed definition, VGS requests that the parties be afforded an opportunity to develop a joint definition of "potential customer." Should the Board decline to adopt its proposed definition, VGS requests that this matter be considered as part of the Transition Period Plan.

The Department states that VGS notified the Board of its program for "potential" customers on November 26, 2013, prior to the issuance of the CPG in Docket 7970. The Department notes that while the Board has requested and received information from VGS and the Department, the Board to date has expressed neither approval nor disapproval of this initiative. The Department states that VGS's current service offering to "potential" customers does not require customers to enter into a VGS service agreement prior to receiving VGS energy efficiency services. The Department recommends that any definition of "Eligible Customer" remain broad enough to include "potential" customers until either (1) the Board makes a determination that these customers are not eligible for EEU services or (2) there is a review of this program's prudency in the context of VGS's Alternative Regulation Plan.

The Department further proposes an alternative definition as follows:

> **Eligible Customer** shall mean a current customer who pays an EEC, or a customer <u>whose premises are expected to receive the opportunity for service</u> from a Distribution Utility within a limited and specific period of time, at which time the customer will pay an EEC. (Proposed language underlined.)

In the event that the Board declines to adopt its proposed alternative definition, the Department recommends that a "ramp-down" of VGS's current initiative, which includes "potential" customers, be devised as part of the Transition Period Plan.

VEIC recommends that the Board adopt the definition proposed by the Hearing Officer in the Proposal for Decision. In the event that the Board adopts a broader definition, VEIC recommends that the terms for these broader services be clearly spelled out, and that the services be developed consistent with the applicable principles of least-cost planning in coordination with any affected EEUs.

We adopt the Hearing Officer's proposed definition of "Eligible Customer." Pursuant to 30 V.S.A. § 209(d)(3)(A), funds raised by an EEC must be used to support the activities authorized under Section 209(d). In turn, Section 209(d)(1) demands that energy efficiency and conservation programs and measures may only be approved by the Board if it determines that the programs and measures will be beneficial to the ratepayers of the gas and electric utility companies. The Hearing Officer's proposed definition ensures that the provision of energy efficiency services with funds derived from VGS ratepayers via an EEC will be beneficial to VGS customers. A broader definition — one that does not require a "potential" customer to enter into an agreement with a Distribution Utility to take service within a limited and specific period of time — would not be consistent with this requirement of Vermont law.

We agree with the Department that guidance is appropriate as to how VGS should transition to providing its EEU services only to "Eligible Customers." Accordingly, we hereby direct VGS to now offer its energy efficiency programs only to "Eligible Customers" as defined by this Order. However, in the event that VGS has any unfinished engagement with a "potential" customer who does not meet the definition of "Eligible Customer" (i.e., an energy efficiency plan has been developed for the customer and VGS has made representations to the "potential" customer about available financial incentives), VGS may complete any such engagement. To the extent that further guidance is necessary as to how VGS shall transition to providing its EEU services only to "Eligible Customers," such guidance shall be developed as part of the Transition Period Plan.

<u>Development of Transition Period Plan</u>

VGS and the Department recommend that the Transition Period Plan be developed in a non-contested case proceeding. VGS notes that in the past the Board has developed Demand Resources Plans in non-contested case proceedings. The Department further recommends that Guidelines for Customer-Sited Generation and Combined Heat and Power be developed in the same non-contested proceeding. In addition, the Department believes that the development of the Transition Period Plan will provide insight "on how best to integrate VGS into the existing DRP process."

VEIC supports the Hearing Officer's recommendation that this Docket be remanded in order to develop a Transition Period Plan. VEIC recommends that the Plan cover the years 2016 and 2017, and concurs with the Hearing Officer that the Plan should include at least: (1) program budgets; (2) minimum performance requirements; (3) QPIs; and (4) a potential performance award. VEIC further recommends that the natural gas EEC should be calculated in accordance with Section 209(d)(3) and should be used to fund Transition Period Plan activities.

We adopt VGS's and the Department's recommendations that the Transition Period Plan be developed in a non-contested case proceeding, which will be initiated by separate Order outside of this Docket. Development of the Transition Period Plan in a non-contested case proceeding is likely to facilitate greater transparency and broader stakeholder engagement. We adopt VEIC's recommendation that the Transition Period Plan cover the 2016 and 2017 program years. We adopt the Hearing Officer's recommendation that the Plan include at a minimum: (1) program budgets; (2) minimum performance requirements; (3) QPIs; and (4) a potential performance award. In addition, there are a number of administrative and implementation topics that must be addressed in the Transition Period Plan, including at least each of the following: (1) a manner for calculating the natural gas EEC until Board Rule 5.300 is amended to address the natural gas EEC; (2) development of Guidelines for Customer-Sited Generation and Combined Heat-and-Power Projects; (3) "ramping out" unamortized energy efficiency program balances; and (4) "ramping down" VGS's current "potential" customer program.

Recommended Changes to the P&A Document

The Department recommends several modifications to the Hearing Officer's proposed P&A Document. First, in Section II, Paragraph 1.A.(f), and Section VI, Paragraph 6, the Department recommends that the references to the independent audit required by 30 V.S.A. § 209(f)(12) be characterized as the "Independent Audit of EEU savings claims and program cost effectiveness" (proposed change underlined). We agree with this modification and adopt it in the attached P&A Document.

Second, the Department recommends that the monthly reporting requirements included in Appendix B of the P&A Document, "Reporting Requirements of an EEU," be amended such that the natural gas EEU would report "BTU (or Mcf), Peak Day Savings, and TRB estimated results funded by Gas EEU Funds." (Proposed change underlined.) We find that this proposal would better align the monthly reporting requirements for the natural gas EEU with those of the electric EEUs. Therefore, we adopt this modification.

VEIC recommends four additional changes to the P&A Document. First, in Section II, Paragraph 1.D, VEIC recommends the deletion of the words "service territory" in the first sentence. As proposed, the first sentence of this paragraph would read:

> The Department of Public Service ("DPS") shall propose EEU~~-service-territory~~-specific electric and gas resource-acquisition scenarios to be modeled for three- and twenty-year periods.

Second, in Section V, Paragraph 10.D, VEIC recommends the addition of the words "or to its own eligible customers" within the parenthetical statement of the first sentence. As proposed, the first sentence of this paragraph would read:

> EEUs shall coordinate with any demand-side resource-acquisition planning or implementation carried out by Vermont Utilities on their own behalf (e.g., voluntary programs provided by a DU in its own service territory or to its own eligible customers or other load management and related services), where appropriate.

Third, in the third paragraph of Appendix A: Energy Efficiency Evaluation Definitions, VEIC recommends the addition of the words "or unregulated fossil fuel (TEPF)" in the final sentence. As proposed, the final sentence of this paragraph, with one minor modification, would read:

> The DPS may, at its discretion, conduct Impact Evaluation assessments, which may include studies that analyze pre- and post-installation measured electricity, ~~or~~ gas, or unregulated fossil fuel (i.e., TEPF) use and studies that seek to determine market effects of efficiency initiatives.

Fourth, in the first paragraph of Appendix B: Reporting Requirements of an EEU, VEIC recommends the addition of a minimum monthly reporting requirement for "BTU estimated results funded by TEPF Funds."

We find each of VEIC's proposed additional amendments reasonable, and therefore have included them in the P&A Document.

Recommended Changes to VGS Order of Appointment

VEIC recommends ten changes to the Hearing Officer's proposed VGS Order of Appointment.

First, in Section I, Paragraph 1, VEIC recommends additional language that would establish that the VGS Demand Resources Plan would be developed in conjunction with the Demand Resources Plans of the other EEUs. As proposed, Paragraph 1 of Section I would read:

> This Appointment shall be effective on the date of issuance. A Transition Period Plan shall be immediately developed, and shall be adopted for the period between its adoption and the completion of a Demand Resources Plan to be performed in conjunction with the development of a Demand Resources Plan for other energy efficiency utilities appointed to provide services to eligible VGS customers.

Second, in Section II, Paragraph 1.G, VEIC recommends a non-substantive change, such that the Paragraph would read:

> Provide all ~~eligible~~ VGS Eligible ~~c~~Customers with the opportunity to participate in EEU services and initiatives;

Third, in Section II, Paragraph 1.N, VEIC recommends additional language that would require VGS to coordinate services with the other EEUs, and to do so consistent with the principles of least-cost integrated resource planning. As proposed, Paragraph 1.N of Section II would read:

> Coordinate the services and initiatives established under this Appointment with those of similar programs, including programs offered by other EEUs appointed to provide service to customers who are also VGS customers, so as to maximize administrative efficiency and the benefits provided to Vermonters consistent with principles of least-cost integrated resource planning; and

Fourth, in Section II, Paragraph 2.A, VEIC recommends changes that would ensure that this paragraph is consistent with the Hearing Officer's proposed definition of "Eligible Customer." As proposed, Paragraph 2.A of Section II would read:

> Serve all Eligible ~~c~~Customers ~~within its service territory who pay a natural gas Energy Efficiency Charge (EEC)~~.

Fifth, in Section II, Paragraph 2.B.(b), VEIC recommends additional language that would require VGS to cooperate with the other EEUs in the provision of least-cost service to its customers under 30 V.S.A. § 218c. As proposed, Paragraph 2.B.(b) of Section II would read:

> Participating in gas system planning and cooperating with the Department of Public Service ("DPS" or "Department"), ~~and~~ Vermont Utilities, and the EEUs authorized to provide service to customers who are also VGS customers in the provision of least-cost service under 30 V.S.A. § 218c; and

Sixth, in Section II, Paragraph 9, VEIC recommends additional language in the second sentence that would require VGS to collaborate with the other EEUs in the development and review of cost and energy-savings allocation methodologies as part of comprehensive treatment of customers. As proposed, the second sentence of Paragraph 9 of Section II would read:

> VGS shall collaborate with the Department and the EEUs authorized to provide service to customers who are also VGS customers to review, refine, and modify appropriate cost and energy savings allocation methodologies and shall inform the Board of these methodologies.

Seventh, in Section II, Paragraph 10.C, VEIC recommends language that would clarify those entities to whom VGS may provide the development and/or support of energy education initiatives. As proposed, Paragraph 10.C of Section II would read:

> The development and/or support of energy education initiatives in schools, colleges, and universities eligible for gas EEU service~~within its service territory~~.

Eighth, in Section II, Paragraph 13, VEIC recommends language changes in the first sentence that would clarify those entities that may be eligible to participate in Self-Administered or Managed Energy Efficiency Programs, and to whom VGS would be responsible for providing assistance. As proposed, the first sentence of Paragraph 13 of Section II would read:

> VGS shall be responsible for assisting the Board and/or the Department in developing and implementing any Self-Administered or Managed Energy Efficiency Programs for eligible gas EEU customers~~within its service territory~~.

Ninth, in Section IV, Paragraph 7, VEIC recommends an additional sentence to the definition of "Eligible Customer" that would require the Board to establish standards and terms to govern the eligibility and availability of services to customers that do not meet the Hearing Officer's proposed definition of "Eligible Customer" in the event that the Board authorizes the provision of EEU services by VGS to such customers. As proposed, Paragraph 7 of Section IV would read:

> **Eligible Customer** shall mean a current customer who pays an EEC, or a customer who has entered into an agreement with a Distribution Utility to take service within a limited and specific period of time, at which time the customer

> will pay an EEC. Should the Board authorize the provision of EEU service to a customer or customers that do not meet this definition, the Board shall establish standards and terms to govern eligibility and the services to be offered to these customers shall be developed consistent with the applicable principles of least-cost integrated resource planning in coordination with the Department and affected EEUs.

Tenth, in Section IV, Paragraph 8, VEIC recommends additional language addressing the definition of "Eligible Indirect Costs" that would require VGS to file detailed procedures that define its processes and methods for determining and allocating such costs. As proposed, Paragraph 8 of Section IV would read:

> **Eligible Indirect Costs** shall be those defined in the guidelines established by the Federal Energy Regulatory Commission. These guidelines shall serve as a basis for determining whether or not the allocation of a particular direct or indirect cost item incurred under this Appointment is reasonable and appropriate. The EEU should file with the Board detailed procedures that define its processes and methods for determining and allocating "Eligible Indirect Costs," and such procedures should not be altered unless filed with the Board and parties. The goal of proposed procedures should be to assure [*sic*] that the reporting and recovery of Eligible Indirect Costs by all EEUs is performed in a comparable manner.

In support of this final proposal, VEIC reiterates its position that greater clarity on the determination of Eligible Indirect Costs is important to the regulation of EEUs. VEIC contends that the Board, the Department, and stakeholders should be able to compare the efficiency of the respective EEUs, and absent information regarding the inclusion or exclusion of certain costs or expenses in an EEU's budget, cross-EEU cost comparisons may not be valid.

We have considered VEIC's proposed changes to the Hearing Officer's proposed VGS Order of Appointment. With respect to the first through sixth, and eighth such changes detailed above, we find them to be reasonable and not adverse to any party. Therefore, these changes are adopted and included in the VGS Order of Appointment. With respect to the seventh proposed change, regarding the schools, colleges, and universities eligible for VGS energy education initiatives, we find VEIC's proposed change overly narrow. Specifically, under VEIC's proposed language, VGS would not develop or support energy education initiatives in schools, colleges, or universities that are not eligible for gas EEU service even though, conceivably, some of their students may be eligible for gas EEU services. Therefore, we do not adopt VEIC's proposed change. With respect to the ninth proposed change, regarding the definition of "Eligible

Customer," we do not adopt this proposed change because we are adopting the Hearing Officer's proposed definition, and we do not authorize the provision of EEU services by VGS to any customers who do not meet this definition. With respect to the tenth proposed change, regarding the definition of "Eligible Indirect Costs," we do not adopt VEIC's proposed change. We share VEIC's desire to enable valid cross-EEU cost comparisons. However, as discussed in the Proposal for Decision, the Hearing Officer's proposed definition is identical to that found in BED's Order of Appointment, and VEIC has not asserted or demonstrated that BED's cost reporting has produced invalid or incomparable results. Therefore, we adopt the Hearing Officer's proposed definition of "Eligible Indirect Costs," and under that definition we expect and require VGS to report its full cost of service for EEU activities when it reports to the Board and stakeholders.

Timing of VGS Demand Resources Plan Proceeding

The Department recommends that the Board defer a decision on how to coordinate and execute the DRP proceedings for the 2018-2020 performance period until after completion of the VGS Transition Period Plan. While the Department agrees with the Hearing Officer's recommendation that the VGS DRP be developed in coordination with the DRPs for BED and VEIC, it is concerned about concurrently developing DRPs for all three EEUs. Specifically, the Department states that the concurrent development of DRPs may impose workload strain on its staff, and creates uncertainty about whether sufficient and equitable time will be provided for review of materials specific to each EEU. The Department contends that there may be benefits to conducting the VGS DRP proceeding sequential to the electric and TEPF DRPs. The Department states that insight on how best to coordinate the VGS DRP process will be provided in the development of VGS's Transition Period Plan.

We do not adopt the Department's recommendation to defer a decision on whether to conduct the inaugural VGS DRP proceeding concurrently or sequentially relative to the electric and TEPF DRP proceedings until after completion of the VGS Transition Period Plan. We acknowledge and appreciate the concerns expressed by the Department about the potential implications of conducting concurrent DRPs for all three EEUs. However, these concerns are tempered by two factors: (1) the Board will be conducting a debriefing workshop in EEU-2013-01 (the most recent electric and TEPF DRP proceeding) to discuss lessons learned about the DRP process, which we expect will yield incremental efficiencies in the conduct of the next DRP proceeding; and (2) to the extent that uncertainties persist about whether there will be "sufficient and equitable time" for the review of DRP filings, the Department, the EEUs, or any other stakeholder may request that the Board initiate the DRP proceeding earlier than it otherwise would or propose alternative procedures. On balance, we find that the advantages of conducting concurrent DRP proceedings for all EEUs — e.g., the facilitated coordination and implementation of programs and strategies intended to advance State energy policy, and modeling program budgets and savings on common, contemporary assumptions — outweigh the potential drawbacks of this approach.

Term of the Appointment

We note that the term of the VGS Appointment was indeterminate in the Proposal for Decision. Pursuant to 30 V.S.A. § 209(d)(4), an Order of Appointment "shall be for a limited duration not to exceed 12 years." In turn, under Paragraph 2 of Section III of the P&A Document, if the Board determines from an Overall Performance Assessment ("OPA") that there is not sufficient cause to solicit proposals from an alternate entity to perform services as an EEU, then it will issue a new Order of Appointment for eleven years that will take effect at the beginning of the calendar year following the Board's Order setting forth the results of the OPA. Consistent with these standards, we establish the term of VGS's Order of Appointment, beginning as of today's date and continuing through December 31, 2026.

Docket 7970 CPG Requirement

Our Order of April 30, 2014, in this Docket expanded the scope of the Hearing Officer's remand to include consideration of the Docket 7970 CPG requirement that VGS develop, and present to the Board for review and approval, an aggressive new energy efficiency program for its new customers in Addison County. In the Proposal for Decision, the Hearing Officer recommended that consideration of the Docket 7970 CPG condition be delayed until the Board's current review on remand in Docket 7970 is complete. The Hearing Officer's recommendation was based, in part, on the fact that VGS has not yet presented such a plan for the Board's consideration.

VEIC agrees with the Hearing Officer's recommendation. In addition, VEIC recommends that the Board direct VGS to not begin marketing or delivering programs to "potential" customers until such programs have been reviewed and approved in this proceeding.

We adopt the Hearing Officer's recommendation to delay consideration of the Docket 7970 CPG condition until the remand proceedings in that Docket are complete. VGS may not market or deliver any aggressive new energy efficiency program for its new customers in Addison County, as called for in Condition 12 of the Docket 7970 CPG, until such a program has been reviewed and approved by the Board. Further, as discussed above, VGS shall immediately cease to offer its existing energy efficiency programs to customers who do not meet the definition of "Eligible Customer."

IX. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board ("Board") of the State of Vermont that:

1. The recommendations and conclusions of the Hearing Officer are adopted, except as modified above.

2. The attached Order of Appointment, which has been modified to be consistent with this Order, shall be issued to Vermont Gas Systems, Inc. ("VGS"). The term of the Appointment shall be from the date of this Order through December 31, 2026.

3. The attached document titled "Process and Administration of an Energy Efficiency Utility Order of Appointment," which has been modified to be consistent with this Order, is approved. This document shall be applicable to all Vermont Energy Efficiency Utilities.

4. This docket is remanded to the Hearing Officer for further proceedings, as discussed above.

Dated at Montpelier, Vermont, this 17th day of April, 2015.

s/James Volz	)	
	)	PUBLIC SERVICE
	)	
s/Margaret Cheney	)	BOARD
	)	
	)	OF VERMONT
s/Sarah Hofmann	)	

OFFICE OF THE CLERK

FILED: April 17, 2015

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.